



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2014-0450; FRL-9922-74-Region 9]**

**Revision to the Arizona State Implementation Plan; Nogales  
Nonattainment Area; Fine Particulate Matter Emissions  
Inventories**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Arizona State Implementation Plan (SIP) concerning the Nogales fine particle ( $PM_{2.5}$ ) nonattainment area 2008 and 2010 emissions inventories. These emission inventories were submitted for the 2006 24-hour fine particle ( $PM_{2.5}$ ) National Ambient Air Quality Standard (NAAQS). We are approving these annual emissions inventories under the Clean Air Act (CAA or the Act).

**DATES:** This rule will be effective on **[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2014-0450 for this action. In most cases, documents in the docket for this action are available electronically at

<http://www.regulations.gov> or in hard copy at EPA Region IX, 75

Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Jerry Wamsley, EPA Region IX, (415) 947-4111, [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA.

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### **I. Proposed Action**

On September 2, 2014, EPA proposed to approve and incorporate into the Arizona State Implementation Plan (SIP) the PM<sub>2.5</sub> emissions inventories for the Nogales nonattainment area titled "Arizona State Implementation Plan Revision for the Nogales PM<sub>2.5</sub> Nonattainment Area" (79 FR 51923). Submitted by Arizona on September 6, 2013, the Nogales area emissions inventories provide annual 2008 and 2010 emissions estimates

(tons per year) for PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors (i.e., nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), sulfur dioxide (SO<sub>2</sub>), and ammonia (NH<sub>3</sub>)). The source categories include non-road mobile sources, non-point sources, on-road mobile sources, and point or stationary sources. The detailed Nogales emissions inventories are found in Appendix A of Arizona's submittal.

We proposed to approve this revision to the Arizona SIP because we determined that it complied with the relevant CAA requirements. EPA's requirements for an emissions inventory for the PM<sub>2.5</sub> NAAQS are set forth in 40 CFR 51.1008.<sup>1,2</sup> We reviewed the results, procedures, and methodologies Arizona used to produce the 2008 and 2010 Nogales area PM<sub>2.5</sub> and PM<sub>2.5</sub> precursor emissions inventories and found that these emissions inventories meet the requirements of the CAA and EPA guidance. Consequently, we proposed to approve the submitted PM<sub>2.5</sub>, NH<sub>3</sub>, NO<sub>x</sub>, SO<sub>2</sub>, and VOC emissions inventories as meeting the CAA's section 172(c)(3)

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<sup>1</sup> 40 CFR 51.1008 (a)(2) and (b) do not apply for the Nogales area because they relate to requirements for attainment demonstrations and reasonable further progress (RFP); these requirements were suspended for the Nogales PM<sub>2.5</sub> nonattainment area so long as the area continues to meet the PM<sub>2.5</sub> standard. For further discussion of our Clean Data Policy as applied to the Nogales area, refer to our proposed rule (77 FR 65656, October 30, 2012) and final rule (78 FR 887, January 7, 2013).

<sup>2</sup> Although the U.S. Court of Appeals for the District of Columbia (DC Circuit) recently remanded this rule and directed EPA to re-promulgate it pursuant to subpart 4 of part D, title I of the CAA (*see Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013)), the court's ruling in this case does not affect EPA's action on these emissions inventories. Subpart 4 of part D, title I of the Act contains no specific provision governing emissions inventories for PM<sub>10</sub> or PM<sub>2.5</sub> nonattainment areas that supersedes the general emissions inventory requirement for all nonattainment areas in CAA section 172(c)(3). *See* "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498, (April 16, 1992).

requirement to provide a comprehensive, accurate, and current inventory of actual emissions for the Nogales nonattainment area.

Our proposed action provides more information on Arizona's PM<sub>2.5</sub> emissions inventories submittal and our evaluation (79 FR 51923, September 2, 2014).

## **II. Public Comments**

EPA provided a 30-day public comment period as part of our proposed action on the 2008 and 2010 Nogales area PM<sub>2.5</sub> and PM<sub>2.5</sub> precursor pollutant emissions inventories submitted by Arizona. We received no comments on our proposal.

## **III. EPA Action**

EPA is taking final action to approve the 2008 and 2010 Nogales nonattainment area PM<sub>2.5</sub> and PM<sub>2.5</sub> precursor pollutant emissions inventories submitted by Arizona and incorporate them into the SIP, as authorized in section 110(k)(3) of the CAA. We determined that Arizona's submittal is consistent with sections 110 and 172(c)(3) of the CAA.

## **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the

criteria of the Clean Air Act. Accordingly, this action merely approves these emissions inventories as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

This SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required

information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,

Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Particulate matter, Reporting and  
recordkeeping requirements, Sulfur oxides, Ammonia, Volatile  
organic compounds.

Dated: January 23, 2015.

Jared Blumenfeld,  
Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal  
Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart D - Arizona**

2. Section 52.120 is amended by adding paragraph (c)(164) to read as follows:

**§52.120 Identification of plan.**

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(c) \* \* \*

(164) A plan revision was submitted on September 6, 2013 by the Governor's Designee.

(i) [Reserved]

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(1) "Arizona State Implementation Plan Revision for the Nogales PM<sub>2.5</sub> Nonattainment Area", dated September 2013, including appendices A and B.

[FR Doc. 2015-02490 Filed 02/06/2015 at 8:45 am;  
Publication Date: 02/09/2015]